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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/675,904  
Filing Date: September 30, 2003  
Appellant(s): KARAOGUZ ET AL.

\_\_\_\_\_  
Kirk A. Vander Leest  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed April 15, 2010 and May 24, 2010 appealing from the Office action mailed October 30, 2009.

**(1) Real Party in Interest**

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Copending Application Serial Number (10/675467) "METHOD AND SYSTEM FOR PERSONAL CHANNEL PROGRAMMING IN A MEDIA EXCHANGE NETWORK" is currently before the Board and contains a terminal disclaimer to the instant application.

Copending Application Serial Number (10/675057) "METHOD AND SYSTEM FOR MIXING BROADCAST AND STORED MEDIA IN A MEDIA EXCHANGE NETWORK" is currently before the Board and contains subject matter similar to the instant application.

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application:

Claims 1 through 31 are pending in the instant application, all of which have been rejected.

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

**(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

**(8) Evidence Relied Upon**

2002/0104099 A1	Novak	8-2002
6,754,904 B1	Cooper et al.	6-2004

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 through 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak, (US Patent Application Publication 2002/0104099) in view of Cooper et al, United States Patent (6,754,904 B1) hereinafter "Cooper".

In reference to Claim 1, Novak teaches a method of customizing a channel interface (shown in Figure 11 as described in Paragraphs [0077-0086]), the method comprising:

determining one or both of personal media and/or broadcast media that is to be presented in a media channel ("broadcast" or "synthetic" channels of Figs. 8 and 9 as described in Paragraph [0071-0075]; with further reference to User Interface 702 of Fig. 7, as described in Paragraphs [0063-0070]);

determining a schedule for presenting one or both of personal media and/or broadcast media in the media channel (creation of synthetic channel at Block 1106 of Figure 11 as described in Paragraph [0078], with further reference to Figs. 6 and 7 as described in Paragraphs [0062-0068]); and

presenting for displaying, at a first geographic location (Upload Source 122, which can be an "individual", an "organization", or a "consumer" and "can comprise or can use a set top box, a PC, or other access device...", as described in Paragraphs [0039,0040,0056]; with further reference to [0041,0046,0055,0056,0068,0070, 0074,0080]), the schedule comprising the one or both of personal media and/or

broadcast media in a media guide (schedule of personal media is presented to user of Upload Source 122 in Display 710 of Interface 702, as shown in Fig. 7 and described in Paragraphs [0067,0068]),

wherein the media channel may be pushed from the first geographic location to a second geographic location (Block 1104 to Block 1112 of Figure 11, as described in Paragraphs [0078-0083], demonstrating the process of providing access to information related to media objects by way of Interface 702; with further reference to Paragraph [0075] and Blocks 1114-1116 of Fig. 11, describing operations of client terminal of end user STB 152 at a [equated to Applicant's "second geographic location"]; with additional reference to Paragraphs [0084-0086]);

Novak additionally discloses a media guide comprising a plurality of channels that are selectable and tunable from the second location (EPG 153 of Fig. 9 displays multiple channels to the end user at STB 152 in the form of Television Channels 902 and synthetic channel Listing 908, as described in Paragraph [0073-0074]. In addition Remote Control Unit 158 is used to tune Television Set 154 to Television Programs 906 and synthetic channel media 910, as described in Paragraphs [0075]).

However, within the disclosure of Novak, it is unclear if one or more of the plurality of channels may be selected and viewed at the first geographic location prior to pushing the media channel to the second geographic location.

In a similar field of invention, Cooper teaches a method and system for informing a first network user of activity by other network users (Abstract). Cooper further discloses a system consisting of multiple Set-top Boxes (600a and 600b of Fig. 6) that

are in communication with each other by way of Server 506 and Internet 508 (as further illustrated in Fig. 5 and described in Col. 3 Line 56—Col. 4 Line 26). Cooper demonstrates in Fig. 6 that each set-top box user on the network is presented with an EPG (602a and 602b) containing multiple television channels that the user is able to select and view at each respective location (as described in Col. 4 Line 28—Col. 5 Line 33; with further reference to the method of Fig. 7, as shown in Fig. 8, and as described in Col. 5 Lines 54—Col. 6 Line 39). Cooper additionally discloses the communication of information from the first geographic location to the second geographic location in the form of Message 600 (as shown in Fig. 6 and described in Col. 4 Lines 28-64). With reference to Figure 9, Cooper demonstrates that a user can receive and view a TV Signal 800 prior to transmitting the outgoing message (as described in Col. 6 Lines 19-57; with further reference to the method of Fig. 10).

Novak and Cooper demonstrate structurally similar systems providing multi-channel EPG information to end users in accordance with similar techniques and, therefore, these similar teachings are usable together. Novak discloses a system consisting of two STBs at different geographic locations, but only teaches a multi-channel EPG being presented at one of the locations. Cooper also discloses a system consisting of two STBs at different geographic locations and additionally teaches that each STB is presented with a multi-channel EPG. Therefore, Cooper demonstrates that it is well known in the art of television program distribution to present a multi-channel EPG to a user regardless of their geographic location. One of ordinary skill in the art at the time of the invention would have been motivated to modify the STB at Upload

Source 122 of Novak to include the multi-channel EPG functionality of Cooper in order to provide traditional STB functions, such as broadcast television consumption, at both locations. Additionally, one of ordinary skill in the art at the time of the invention would have been motivated to include Cooper's teachings of previewing content prior to transmitting an outgoing message within Novak's system for pushing media from a first to a second geographic location so that the user uploading content could review the content prior to broadcasting.

In reference to Claim 2, the combination of Novak and Cooper teaches a method of presenting the media guide comprising representations of one or both of personal media and broadcast media in a graphical user interface (Novak: EPG 153 of Fig. 9, as described in Paragraphs [0071-0075]; with further reference to EPG 802 of Figure 8).

In reference to Claim 3, the combination of Novak and Cooper teaches a method wherein the graphical user interface contains one or both of aural and/or visual representations comprising one or more of audio, text, video, and/or graphics of one or both of personal media and/or broadcast media (Novak: display screen 1004 of Figure 10 as described in Paragraph [0076], Lines 4-10).

In reference to Claim 4, the combination of Novak and Cooper teaches a method of controlling the graphical user interface by one or more of a keyboard, a mouse, a remote control, and/or a microphone (Novak: buttons 172 and 174 of remote control 158 as described in Paragraph [0073], Lines 4-10).

In reference to Claims 5 and 9, the combination of Novak and Cooper teaches a method wherein the schedule correlates one or both of personal media and/or



broadcast media to one or more of a time, a day, and/or a year (Novak: listings 908 of Figure 9 as described in Paragraph [0074] lines 10-13) for the presentation of the one or more of personal media and/or broadcast media in the media channel.

In reference to Claim 6, the combination of Novak and Cooper teaches a method of selecting the one or both of personal media and/or broadcast media (Novak: buttons 172 and 174 of remote control 158 as described in Paragraph [0073], Lines 4-10) from a list of sources (Novak: "underlying component" of EPG 802 as described in Paragraph [0072]).

In reference to Claim 7, the combination of Novak and Cooper teaches a method of displaying access and control functions for controlling the one or more of personal media and/or broadcast media from within the media guide (Novak: "automatic features" of interface 702 as described in Paragraph [0066]).

In reference to Claim 8, the combination of Novak and Cooper teaches a method of rescheduling when the one or more of personal media and/or broadcast media is to be presented in the media channel (Novak: "re-sequence" action of interface 702 as described in Paragraph [0065], Lines 6-14).

In reference to Claim 10, the combination of Novak and Cooper teaches a method of updating one or more of a time, a day, and/or a year within the media guide (Novak: upload/update button 712 of interface 702 as described in Paragraph [0067]), when the one or both of personal media and/or broadcast media is to be presented in the media channel (Novak: Updating EPG 153, as described in Paragraph [0080]).

In reference to Claims 11-20, the combination of Novak and Cooper teaches a machine-readable storage (Novak: described in Paragraph [0077], Lines 4-10) having stored thereon, a computer program having at least one code section for programming media content in a distributed media network (Novak: using "token" program described in Paragraph [0058] Lines 1-10), the at least one code section being executable by a machine (Novak: STB 152 described in Paragraph [0077] Lines 10-14) for causing the machine to perform the method of Claims 1 through 10.

In reference to Claim 21-30, the combination of Novak and Cooper teaches a system for customizing a channel interface comprising at least one processor that receives at least one indication of one or both of personal media and/or broadcast media that is to be presented in a media channel (Novak: STB 152 executing the flow diagram of Figure 11 as described in Paragraphs [0077-0086]), wherein the system and processor execute the method of Claims 1 through 10.

In reference to Claim 31, the combination of Novak and Cooper teaches a processor that is a media processing system processor (Novak: Paragraph [0085] describing the STB 152 executing flow diagram block 1114).

#### **(10) Response to Argument**

The Examiner respectfully disagrees that the rejection should be reversed. Only those arguments having been raised are being considered and addressed in the Examiner's Answer. Any further arguments regarding other elements or limitations not

specifically argued or any other reasoning regarding deficiencies in a prima facie case of obviousness that the Appellant could have made are considered by the Examiner as having been conceded by the Appellant for the basis of the decision of this appeal. They are not being addressed by the Examiner for the Board's consideration. Should the panel find that the Examiner's position/arguments or any aspect of the rejection is not sufficiently clear or a particular issue is of need of further explanation, it is respectfully requested that the case be remanded to the Examiner for further explanation prior to the rendering of a decision.<sup>1</sup>

Discussion of Rejections of independent Claims 1, 11, and 21 under 35 USC 103(a) as being unpatentable over Novak in view of Cooper.

Appellant presents that the combination of Novak and Cooper does not teach the Claim 1 and 11 (and similarly Claim 21) limitation of:

"[P]resenting for displaying, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location prior to pushing said media channel to said second geographic location."

because:

"[e]ven though Novak's upload source 122 may utilize an STB, the fact remains that the synthetic channel media objects (uploaded at the source 122 and seen in Fig. 7) are only accessed and displayed at the location of the STB 152, and not from the location of the upload source 122 (see Novak at paragraph 0063)" (Appeal Brief received April 15, 2010 ("Appeal Brief"), bottom of Page 7)

and

"[e]ven though Cooper discloses two separate locations with two separate EPGs (602a and 602b in Fig. 6), **none of Cooper's STBs (at either location 602a or 602b) can select and view a**

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<sup>1</sup> See 37 CFR 41.50(a)(1) and MPEP 1211.

**media channel (or media), prior to pushing the same media channel (or media) to the other location"** (Appeal Brief bottom of Page 7; with emphasis added by Appellant).

Appellant additionally presents that:

"Novak not only fails to establish that 'a media channel can be selected and viewed at the STB of the first location,' **it also fails to establish that a media channel can be selected and viewed at one location prior to the same channel being pushed to another location"** (Appeal Brief bottom of Page 8; with emphasis added by Appellant) and **"Cooper also generates a message 600, which is sent to another location but it is not 'media' that is displayed at the user location"** (Appeal Brief top of Page 9; with emphasis added by Appellant).

Initially, it is the Examiner's position that Claims 1, 11, and 21 do not require the same channel that is selected and viewed at a first location to also be pushed from the first location to a second location (as argued by Appellant in Appeal Brief bottom of Pages 7 and 8). As best understood by the Examiner, a "media channel", as claimed, is a channel that is created at the first location and includes one or both of personal media and broadcast media (in accordance with the "determining" steps of Claim 1), where this "media channel" is pushed from the first location to the second location (claimed "pushing said media channel to said second location"). In Claim 1, a "schedule" including "one or both of personal media and/or broadcast media in a media guide" is presented at the first location "wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location". The Examiner notes that this clause does not explicitly refer back to the claimed "media channel". Therefore, it is the Examiner's position that a "plurality of channels" and a "media channel" have separate meaning as claimed, where one or more of the "plurality of channels" is "selected and viewed", and the "media channel" is pushed from a first location to a second location.

As the Examiner had previously presented, Novak teaches a system and method for pushing media content from a first geographic location to a second geographic location, where a set top box device (STB) can be located at each location (generally demonstrated by Novak in Figs. 1 and 11; with further reference to Final Office Action mailed October 30, 2009 ("Office Action"), Page 7-8). In particular, the Examiner has addressed the claimed "first location" with Novak's Upload Source 122 and the claimed "second location" with Novak's "STB 152" (Office Action Pages 7-8). Novak clearly discloses that multiple selectable and tunable media channels are presented at STB 152 by way of (electronic program guide) EPG 153 (of Fig. 9, as described in Paragraphs [0073-0075]). Novak additionally discloses that Upload Source 122 comprise a set top box, a PC, or other access device (Paragraphs [0039,0040,0056]).

According to Novak, Upload Source is presented with Interface 702 of Fig. 7 for scheduling the presentation of personal media (as described in Paragraphs [0067-0068]). It is the Examiner's position that Novak's Interface 702 constitutes a "media guide" (as first stated in Claims 1, 11, and 21 of the instant application) however, within the disclosure of Novak, it is unclear if one or more of the plurality of channels may be selected and viewed at the first location prior to pushing the media channel to the second geographic location (Office Action Page 8). Therefore the Examiner has relied upon the Cooper reference to teach this limitation.

In a similar fashion to Novak, Cooper teaches a method and system for communicating information from a STB in a first geographic location to a STB in a second geographic location (as shown in Fig. 6 and described in Col. 4 Line 28—Col. 5

Line 33; with further reference to Office Action Pages 8-10). As demonstrated in Figure 6, each location is presented with an EPG containing multiple channels (as individually identified by channel number and name). Additionally, Cooper discloses that channels in the EPGs are selectable and viewable as presented to each location (in accordance with the method of Fig. 7, as shown in Fig. 8, and as described in Col. 5 Lines 54—Col. 6 Line 39). With reference to Figure 9, Cooper demonstrates that a user can receive and view a TV signal 800 prior to transmitting an outgoing message (as described in Col. 6 Lines 19-57; with further reference to the method of Fig. 10).

As summarized above, the Examiner relies on Novak to teach an act of exchanging media by “pushing” content from a first location to a second location and the Examiner does not rely on Cooper to teach the act of pushing media (as argued by Appellant in Appeal Brief bottom of Page 7, top of Page 8, and top of Page 9). The Examiner has cited Cooper to demonstrate a structurally similar system to Novak (i.e. a system consisting of two STBs each at separate locations), where each STB is presented with an EPG containing channels that are selectable and viewable at each location. The Examiner has additionally cited Cooper’s teaching of Message 600, which is communicated between the STBs, in order to demonstrate that, in a similar fashion to Novak, Cooper teaches an act of communication from a first location to a second location. In particular, Cooper establishes that this communication is performed after the user has selected and viewed a channel in the EPG (as described in Col. 6 Lines 19-57; with further reference to Steps 1000 and 1006 of Fig. 10).

From a factual prospective, it is the Examiner's position that Novak lacks a clear teaching of EPG 153 (identified as the claimed "media guide") presented at Upload Source 122 (identified as the claimed "first location"), however Novak clearly discloses that EPG 153 is presented at STB 152 (identified as the claimed "second location"), where media within a media channel is pushed from the first location to the second location (generally demonstrated by Novak in Figs. 1 and 11). Cooper teaches two separate EPGs (602a and 602b of Fig. 6) respectively presented at STBs located in separate locations, where it is possible to select and view a channel in the EPG at either location.

The Examiner submits that Appellant is not considering or arguing the combination of Novak and Cooper, and is merely addressing the teachings of each reference individually to demonstrate non-obviousness. It is the Examiner's position, as established above, that Novak and Cooper demonstrate each limitation of Claim 1. Since Appellant does not contend that Novak and Cooper are not usable together or not analogous art, the Examiner upholds that that the teachings of Novak and Cooper demonstrate structurally similar systems providing multi-channel EPG information to end users in accordance with similar techniques and, therefore, these similar teachings are usable together. Novak discloses a system consisting of two STBs at different geographic locations, but only teaches a multi-channel EPG being presented at one of the locations. Cooper also discloses a system consisting of two STBs at different geographic locations and additionally teaches that each STB is presented with a multi-channel EPG. Therefore, the Examiner submits that Cooper demonstrates that it is well

known in the art of television program distribution to present a multi-channel EPG to a user regardless of their geographic location. In addition, one of ordinary skill in the art at the time of the invention would have been motivated to modify the STB at Upload Source 122 of Novak to include the multi-channel EPG functionality of Cooper in order to provide traditional STB functions, such as broadcast television consumption, at both locations.

In addition, in view of the similar teachings of Cooper, one of ordinary skill in the art at the time of the invention would have found it to be obvious that Novak's STB device at Upload Source 122 is capable of displaying an EPG allowing the user to select and view content prior to performing an outgoing communication, such as pushing a media channel to a second STB at different geographic location.

Therefore, the Examiner submits that, in combination, Novak and Cooper all limitations of Claims 1, 11, and 21.

Discussion of Rejections of Claims 2-10, 12-20, and 22-31 under 35 USC 103(a) as being unpatentable over Novak in view of Cooper.

No additional arguments are presented over and above those previously addressed. Accordingly, the rejection is believed to be proper for the previously addressed reasoning.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.



For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Patrick A Ryan/  
Examiner, Art Unit 2427

Conferees:

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427

/Jason P Salce/  
Primary Examiner, Art Unit 2421